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March 9, 2011

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 3/9/11

**VIA HAND DELIVERY**

The Honorable Richard M. Berman  
United States District Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street, Courtroom 21B  
New York, New York 10007-1312

Re: *Ambac Assurance Corporation v. EMC Mortgage Corporation,*  
Index No. 08 Civ. 9464 (RMB) (THK)

Dear Judge Berman:

We represent Defendant EMC Mortgage Corporation (“EMC”) in the above-named matter which was dismissed by Order of this Court on February 8, 2011. On December 16, 2010, Magistrate Judge Theodore H. Katz issued a Report and Recommendation (the “Report”) denying EMC’s Motion to Seal Ambac Assurance Corporation’s Motion for Leave to Amend Its Complaint and ordered that the documents filed in support of, and in opposition to, Ambac’s motion to amend shall be unsealed and filed. Accordingly, EMC, has attempted to file its Opposition as well as the Declaration of Eric N. Whitney in Support of EMC’s Opposition to Ambac’s Motion for Leave to Amend the Complaint (the “Whitney Declaration”), however, we have been unable to electronically file the 84 exhibits attached to the Whitney Declaration due to the size of the submission.

Despite our efforts to scan all of the documents at the lowest resolution possible, the total file size is still over 100 megabytes, which is well over the limit permitted under the S.D.N.Y. ECF Rules and Instructions, which allows for electronic submissions no larger than 15 megabytes. In addition, the submission is over 2100 pages. We spoke with your clerk regarding how we should proceed and were instructed to write a letter seeking permission to file a paper copy of the exhibits to the Whitney Declaration. Accordingly, we respectfully request that the Court allow us to file Defendant EMC Mortgage Corporation’s Memorandum of Law in Opposition to Ambac’s Motion to File Amended Complaint and the Whitney Declaration electronically and to file a paper copy of the attached exhibits to complete the record in this matter.

Respectfully submitted,

*Eric Whitney, Esq.*  
Eric N. Whitney

The Honorable Richard M. Berman

March 9, 2011

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cc: Philip R. Forlenza, Esq.  
Carrie Syme, Esq.  
Richard A. Edlin, Esq.  
Anastasia A. Angelova, Esq.

Application granted  
provided that Defendant  
here on ECF that the  
accompanying exhibits were  
filed directly with the  
Court.

SO ORDERED:

Date: 3/9/11



Richard M. Berman, U.S.D.J.